

REMARKS

The Examiner is thanked for the due consideration given the application. The specification has been amended to insert headings.

Claims 1-13 and 18-24 are pending in the application. Claims 1-13 have been amended to improve the language in a non-narrowing fashion. Claims 18-24 are newly presented and reflect subject matter presented in the previous claims without using "means" recitations.

No new matter is believed to be added to the application by this amendment.

Oath/Declaration

The Office Action asserts that the oath or declaration is defective because non-initialed and/or non-dated alterations have been made. However, these changes were merely indicators (such as circles) of where to sign and date, and as such do not constitute a change of substance requiring endorsement.

However, it is noted that a Declaration signed by the appropriate inventor(s) should follow.

Claim Objections

Claim 6 has been objected to as containing informalities. The comments in the Office Action have been considered, and claim 6 has been amended to be free from informalities.

Claim Rejections - 35 USC §112

Claims 1-13 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This rejection is respectfully traversed.

The comments in the Office Action have been considered, and the claims have been accordingly amended to be clear, definite and have full antecedent basis.

This rejection is believed to be overcome, and withdrawal thereof is respectfully requested.

Claim Rejections - 35 USC §103

Claims 1-8, 11, and 13 have been rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,443,520 to Zweymuller et al. (Zweymuller) in view of US Patent Application No. 2003/0050705 A1 to Cueille et al. (Cueille).

Claims 9-10 and 12 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Zweymuller in view of Cueille as applied to claim 1 above, and further in view of US Patent No. 5,147,407 to Tager (Tager).

These rejections are respectfully traversed.

The present invention pertains to an acetabular insert that is exemplarily illustrated in Figures 1 and 2 of the application reproduced below.

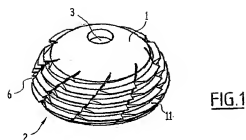


FIG.1

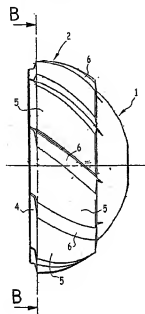


FIG.2

The acetabular implant includes a screw cup configured to receive an articular insert. A screwing device is at a periphery or in a tropical/equatorial zone (2) of the cup, and the screwing means are intended to be introduced into bone material of the acetabulum during a screwing action. A coating is carried by the cup, which coating facilitates osteointegration (this can be a selective calcium hydroxyapatite coating). The coating is thick on convex portions (1, 10) of an outer surface of the cup, including in zones or troughs or recesses of threads (10) that are left free in the screwing means, and the coating has a lesser thickness, or is even absent, on screw reliefs or

threads (11). This can be seen in Figures 7 and 8, which are reproduced below.

FIG.7

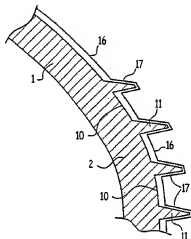
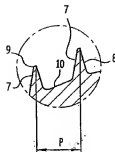
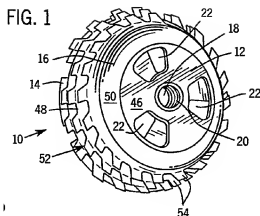
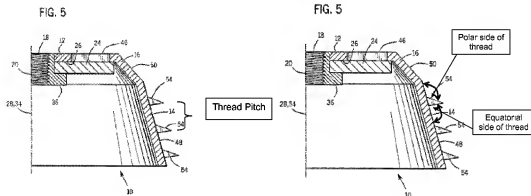


FIG.8

Zweymuller pertains to a cementless fixation element for an artificial hip joint. Figure 1 of Zweymuller is reproduced below.



The Office Action also annotated Figure 5 of Zweymuller, versions of which are reproduced below.



The Office Action asserts that "it would have been obvious to one having ordinary skill in the art to modify the screw-type fixation element of Zweymuller to include a coating, particularly in portions of the cup that does not include the screw means/threads, since those areas would require more bone growth encouragement than the threads, which already dig into the bone is implicitly taught by Cueille."

However, this implicit teaching cannot be found in Cueille.

Moreover, the present invention does not include a coating on a screw-type element which has no coating, as is asserted by the Office Action but it is, in a coated screw-type element, to provide that the coating has a lower thickness, or is even absent, on the screw reliefs or threads than on the convex portions of the outer surface of the cup, including in the zones or trough or recesses of threads that are left free in the screwing means.

This is in order to improve the shearing strength of the coating and therefore to reduce the risks of delamination during the screwing action.

This is not taught or suggested by Cueille.

The Office Action also refers to Pope (U.S. Application 2004/0199260 - not formally part of the rejection) for teachings of apatite coatings. The apatite is used only to coat the bone mating surface. See, e.g., paragraph 0102. However, there is no teaching or inference of the coatings in regards to the screwing means, as is set forth in the present invention.

The other applied art reference does not address the deficiencies discussed above.

One of ordinary skill and creativity would thus not produce a claimed embodiment of the present invention from a

knowledge of the applied art. A *prima facie* case of unpatentability has thus not been made.

These rejections are believed to be overcome, and withdrawal thereof is respectfully requested.

New Claims 18-24

New claims 18-24 have been submitted for prosecution on the merits. It is respectfully submitted that claims 18-24 are patentable for at least the reasons set forth above.

Conclusion

The Examiner is thanked for considering the Information Disclosure Statement filed January 27, 2006 and for making the references therein of record in the application.

Prior art of record but not utilized is believed to be non-pertinent to the instant claim.

As no substantive issues remain, the issuance of a Notice of Allowability is respectfully solicited.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future submissions, to charge any deficiency or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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